|  |
| --- |
| BILL ANALYSIS |

|  |
| --- |
| C.S.H.B. 3496 |
| By: Sheffield |
| Public Health |
| Committee Report (Substituted) |

|  |
| --- |
| **BACKGROUND AND PURPOSE** Concerns have been raised about the impact of entities dubbed "pill mills" on the ongoing opioid crisis, as well the role played by the potential misuse of the Medicare and Medicaid reimbursement systems by some pharmacies and pharmacists. It has been suggested that closer scrutiny of pharmacies that do not operate as a publicly traded company is warranted. In order to decrease the number of bad actors in the opioid crisis and improve outcomes for Texans, C.S.H.B. 3496 seeks to impose certain financial disclosure and surety bond requirements on these pharmacies. |
| **CRIMINAL JUSTICE IMPACT**It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision. |
| **RULEMAKING AUTHORITY** It is the committee's opinion that rulemaking authority is expressly granted to the Texas State Board of Pharmacy in SECTIONS 2 and 4 of this bill. |
| **ANALYSIS** C.S.H.B. 3496 amends the Occupations Code to require an applicant for a pharmacy license to submit a sworn disclosure statement as prescribed by the bill unless the pharmacy for which the application is made is operated by a publicly traded company or wholly owned by a retail grocery store chain or the applicant is applying for a Class B or Class C pharmacy license. The bill requires an application for a pharmacy license to include notice that a surety bond may be required. The bill sets out the required contents of the sworn disclosure statement and requires the statement to be given under oath as prescribed by Texas State Board of Pharmacy (TSBP) rule. The bill makes information contained in the disclosure statement confidential and not subject to disclosure under state public information law. The bill requires an applicant to notify the TSBP the not later than the 60th day after the date any administrative sanction or criminal penalty is imposed against a person who has a direct financial investment in the pharmacy. The bill authorizes the TSBP to adopt rules regarding the disclosure of the source of a financial investment by an individual. C.S.H.B. 3496 authorizes the TSBP to discipline an applicant for or holder of a pharmacy license if the TSBP finds that the applicant or license holder has engaged in fraud, deceit, or misrepresentation as defined by TSBP rule in dispensing drugs for nontherapeutic purposes. The bill authorizes the executive director of the TSBP to require a pharmacy license holder to submit a surety bond to the TSBP in an amount as prescribed by TSBP rule but capped at $25,000. The bill authorizes the TSBP to use a pharmacy's surety bond to secure the payment of a fine, fee, or penalty imposed on the pharmacy or costs incurred by the TSBP in conducting an investigation of the pharmacy for certain offenses if the pharmacy fails to pay the fine, fee, penalty, or cost as prescribed by TSBP rule. The bill authorizes the TSBP to impose an administrative penalty on an applicant who fails to submit a sworn disclosure statement with an application for a pharmacy license, if applicable.  |
| **EFFECTIVE DATE** January 1, 2020. |
| **COMPARISON OF ORIGINAL AND SUBSTITUTE**While C.S.H.B. 3496 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.The substitute replaces a requirement for an applicant for a pharmacy license who is not a pharmacy operated by a publicly traded company to submit a financial investor disclosure statement as provided by the bill's provisions and a surety bond with a requirement for a pharmacy license applicant to submit a sworn disclosure statement required under the bill's provisions unless the applicant is a pharmacy operated by a publicly traded company, wholly owned by a retail grocery store chain, or applying for a Class B or Class C pharmacy license. The substitute changes the contents of the disclosure statement.The substitute includes the following:* an exemption of information in the statement from state public information law;
* a requirement for a pharmacy license applicant to notify the TSBP of an administrative sanction or criminal penalty against a person with a direct financial investment in the pharmacy;
* an authorization for the TSBP to adopt rules regarding the disclosure of the source of a financial investment;
* an authorization for the TSBP to discipline an applicant for or the holder of a pharmacy license for engaging in fraud, deceit, or misrepresentation as defined by TSBP rule in dispensing drugs for nontherapeutic purposes; and
* an authorization for the executive director of the TSBP to require a pharmacy license holder to submit a surety bond to the TSBP.

The substitute does not include provisions relating to the contents of the required surety bond. The substitute does not include a requirement for a pharmacy that is not operated by a publicly traded company to submit a surety bond before the date of a change of ownership of a pharmacy. The substitute revises an authorization for the TSBP to use the surety bond to secure payment of a fine, fee, or penalty imposed on a pharmacy or costs incurred by the TSBP in conducting an investigation of the pharmacy. The substitute changes the subject of the administrative penalty the TSBP is authorized to impose from a pharmacy license applicant who fails to disclose criminal history record information to an applicant who fails to submit a sworn disclosure statement with an application if required. The substitute revises the provision establishing the applicability of the bill's provisions. The substitute changes the bill's effective date from September 1, 2019, to January 1, 2020. |